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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional) 10159-US-PCT
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First Named Inventor: CLARK Art Unit: 1642
Application Number: 10/585261 Examiner: _____
Filed: 07 Jan 2005

Title:
BIOMARKERS AND METHODS FOR DETERMINING SENSITIVITY TO EPIDERMAL GROWTH

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.
NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☒ Other than small entity – fee \$ 540 (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of
Notification of Missing Requirements (identify the type of reply):

☐ has been filed previously on _____

☒ is enclosed herewith.

B The issue fee of \$ _____

☐ has been filed previously on _____

☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

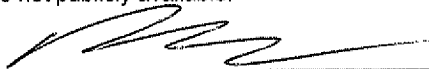
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee**

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

 _____ Signature PAUL D. GOLIAN _____ Typed or printed name Bristol-Myers Squibb Company, Patent Department _____ Address Route 206 & Province Line Road Princeton, NJ 08543 _____ Address	June 18, 2009 _____ Date 42,591 _____ Registration Number, if applicable 609-252-4091 _____ Telephone Number
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- Enclosure ☐ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unavoidable delay
- ☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))


I hereby certify that this correspondence is being: Transmitted via EFS-WEB

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

June 18, 2009

Date




 Signature

Paul D. Golian

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

		<u>June 18, 2009</u>
	Signature	Date
PAUL D.	GOLIAN	42,591
Typed or printed name		Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Applicant's Representative makes the statement that the Notification of Missing Requirements date mailed 10/24/2008 was not received at the correspondence address of record, and that a search of applicant's representative's records, including any filing jacket or the equivalent, and the application contents, indicates that the Notification of Missing Requirements was not received.

The enclosed statement of Laura A. Caponi describes the system used for recording correspondence received from the USPTO. This statement establishes that Applicant's docketing system is sufficiently reliable, and also establishes non-receipt of the Notification of Missing Requirements.

(Please attach additional sheets if additional space is needed.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF Clark, Edwin, et al
APPLICATION NO: 10/585261
FILED: January 7, 2005
FOR: BIOMARKERS AND METHODS FOR DETERMINING
 SENSITIVITY TO EPIDERMAL GROWTH FACTOR RECEPTOR
 MODULATORS

FILED VIA EFS-WEB

STATEMENT OF LAURA A. CAPONI

1. I am the Docket Supervisor at Bristol-Myers Squibb Company ("Company") and have worked in the Company's Docketing Department since March of 2003.
2. A correspondence notification is sent from the U.S. Patent and Trademark Office ("USPTO") to Company via e-mail to our central e-mail address uspatents@bms.com from the USPTO.
2. The central e-mail address is monitored by the Docketing Department.
3. Once the correspondence notification is received, the Docketing Department connects to the USPTO Pair system to download and print the correspondence that is referenced in the USPTO notification. Once the correspondence is downloaded and printed, it is then sorted and date-stamped by the Docketing Department.
4. To the extent correspondence is received as mail via the U.S. Postal Service rather than via e-mail, mail is opened, sorted and date-stamped by the Company's Support Services Personnel who are trained to identify, collect and forward all USPTO documents to the Docketing Department. Once the mail has been opened, stamped and sorted by Support Services, the Docketing Department is contacted and the sorted mail is reviewed again by the Docketing Department to be certain all USPTO documents have been collected for docketing.
5. The Docketing Department then verifies the proper identification of each USPTO document via the Company's computer docket system Memotech. After proper identification, each

USPTO document is entered into the Company's docket system, which serves as an electronic record for documents received by the Company from the USPTO on a daily basis. The Docketing Department personnel initial each USPTO document on the upper right hand corner. Attached hereto, as Exhibit A, is a page from the Company's docket log for U.S. Application Number 10/585261 filed on January 7, 2005 (Attorney Docket No. 10159-US-PCT). I personally searched the docket system for all dates from January 7, 2005 to May 15, 2009 and found no record of the receipt of a "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)".

6. After the mail is processed by the Docketing Department, it is distributed to the patent paralegals and secretaries.
7. Upon receipt of the original USPTO document by the paralegals and secretaries, they, pursuant to instructions, look for the date stamp and the initials in the upper right hand corner of the USPTO document. These two notations together indicate that the USPTO document has been properly processed and entered into the Company's docket system. If either the date stamp or initials are missing, the paralegals and secretaries, pursuant to instructions, assume that the USPTO document has not been properly processed and bring it to the attention of the Docketing Department immediately.
8. Once the USPTO document is entered into the docket system, USPTO documents requiring a response will appear on a bi-weekly docket report beginning two years prior to the deadline and continuing until the requisite response has been fulfilled. The bi-weekly docket reports are distributed to attorneys, agents, paralegals and secretaries for monitoring purposes. In addition, the Docketing Department maintains docket report to communicate to the attorneys, agents, paralegals and secretaries of outstanding, non-extendable deadlines.
9. Once the requisite response to a USPTO document has been sent to the USPTO, the responsible paralegal or secretary sends the Docketing Department a Docket Process form, a copy of which is attached as Exhibit B, along with a copy of the document that has been sent

to the USPTO. The Docket Process form identifies the case by application number and present docket date, and also identifies the document(s) sent to the USPTO and the date the document(s) was sent. Each of these entries must match the docket system before a response due date is satisfied. In this way, the Docketing Department can ensure that the requisite response has been satisfied.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration issued thereon.

Date:

6/17/09

A handwritten signature in black ink, appearing to read "Laura Caponi", written over a horizontal line.

Laura A. Caponi
Docket Supervisor
Bristol-Myers Squibb Company

EXHIBIT - A

Connected: John Dee

Patent Update Cancel Save

Druckern

Delete	Event	Number	Due date	Reminder	Performed	Acknowledgement
<input type="checkbox"/>	Sent to CPA	100			07 May 2009	
<input type="checkbox"/>	Sent to CPA	106			06 Mar 2009	
<input type="checkbox"/>	EFS-Web Confirmation No.	2236134			25 Sep 2007	
<input type="checkbox"/>	Supplemental IDS	09/14/2007	14 Oct 2007		25 Sep 2007	
<input type="checkbox"/>	Information disclosure statement		05 Oct 2006		03 Oct 2006	06 Oct 2006
<input type="checkbox"/>	Recordal	018177/0941			28 Aug 2006	
<input type="checkbox"/>	Assignment Filed-converted				28 Aug 2006	28 Aug 2006
<input type="checkbox"/>	Local filing converted	10/585261			05 Jul 2006	
<input type="checkbox"/>	Local filing	10/585261			05 Jul 2006	
<input type="checkbox"/>	Statement Of Verification converted				05 Jul 2006	05 Jul 2006
<input type="checkbox"/>	National phase	AWAITING	07 Sep 2005		05 Jul 2006	
<input type="checkbox"/>	Open				05 Jul 2006	

Copy of

Shortcut keys

Patent Update Cancel Save

<input type="checkbox"/>	Assignment Filed-converted				28 Aug 2006	28 Aug 2006
<input type="checkbox"/>	Local filing converted	10/585261			05 Jul 2006	
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<input type="checkbox"/>	Copy of Declaration Filed-converted				05 Jul 2006	05 Jul 2006
<input type="checkbox"/>	Sequence Listing converted				05 Jul 2006	05 Jul 2006
<input type="checkbox"/>	Filing	10/585261			07 Jan 2005	
<input type="checkbox"/>	Designated	PCT/US2005/000638			07 Jan 2005	
<input type="checkbox"/>	Priority	60/535151			07 Jan 2004	
<input type="checkbox"/>	Expiry date		07 Jan 2005			
<input type="checkbox"/>	Miss. Parts Due Declaration		26 May 2009			
<input type="checkbox"/>	Supplemental IDS	12/15/2008	15 Jan 2009			

EXHIBIT B

Mail to uspatents@bms.com



Bristol-Myers Squibb Company
PATENT DEPARTMENT

US DOCKET SLIP

Docket Number	
Application Number	
Filing Date	
Attorney/Agent	

Present Docket Date(s) in Mernotech: <input type="text"/>	
<input type="checkbox"/> Action Performed on <input type="text"/> <input type="checkbox"/> Close - Action Not Performed <input type="checkbox"/> Extend date to <input type="text"/>	
New Application Type: <input type="checkbox"/> Provisional (PSP) <input type="checkbox"/> Regular Application (NP) <input type="checkbox"/> Divisional (DIV) <input type="checkbox"/> Continuation (CNT) <input type="checkbox"/> Continuation in Part (CIP) <input type="checkbox"/> Request for Continued Examination (RCE) <input type="checkbox"/> National Stage PCT Application (US PCT) <input type="checkbox"/> Reissue Filed	Terminal Disclaimer Filed: <input type="checkbox"/> Over Patent No. <input type="text"/> <input type="checkbox"/> Over App. No. <input type="text"/>
Information on Parent of New Filing: <input type="checkbox"/> Parent Application to be abandoned <input type="checkbox"/> Parent Application No. <input type="text"/>	Corrections (provide copies to docketing): <input type="checkbox"/> Filing Receipt - BMS ERROR <input type="checkbox"/> Filing Receipt - USPTO ERROR <input type="checkbox"/> Letters of Patent - BMS ERROR <input type="checkbox"/> Letters of Patent - USPTO ERROR <input type="checkbox"/> Other: <input type="text"/>
Declaration Information: <input type="checkbox"/> Newly signed Declaration provided <input type="checkbox"/> New unsigned Declaration provided <input type="checkbox"/> Copy of Declaration from prior filing provided	Information Disclosure Statement: <input type="checkbox"/> Regular Form 1449 <input type="checkbox"/> Supplemental <input type="checkbox"/> Supplemental - remove the following dates: <input type="text"/>
Sequence/Drawing Information: <input type="checkbox"/> Drawings provided <input type="checkbox"/> Sequence on CD/Diskette <input type="checkbox"/> Statement of Verification	Issue Fee Payment: <input type="checkbox"/> Regular <input type="checkbox"/> Design
Response to Missing Parts: <input type="checkbox"/> Declaration <input type="checkbox"/> Sequence Submission <input type="checkbox"/> Drawings <input type="checkbox"/> Other: <input type="text"/>	Assignment: <input type="checkbox"/> Regular <input type="checkbox"/> Correction - BMS ERROR <input type="checkbox"/> Correction - USPTO ERROR
Amendments: <input type="checkbox"/> Preliminary Amendment <input type="checkbox"/> Regular Amendment <input type="checkbox"/> Response to Restriction Requirement <input type="checkbox"/> Amendment after Final Rejection <input type="checkbox"/> Amendment after Notice of Allowance <input type="checkbox"/> Response to Non-Compliant Amendment	Abandoned Application: <input type="checkbox"/> Via Failure to Respond <input type="checkbox"/> Express Abandonment
Appeal Information: <input type="checkbox"/> Notice of Appeal filed <input type="checkbox"/> Appeal Brief filed <input type="checkbox"/> Reply Brief filed	Other: <input type="text"/>